

ID:02040affidavitbww

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KATHRYN MARSHALL

CASE NO. C-1-02-189

VENA MARSHALL

Judge Herman Weber

Plaintiffs

Magistrate Judge Hogan

vs.

OHIO DEPARTMENT OF EDUCATION

NEW BOSTON PUBLIC SCHOOLS

LOWELL HOWARD

**SECOND AFFIDAVIT OF BERNARD
W. WHARTON**

BERNARD TILLEY

MELINDA BURNSIDE

JERRY BENTLEY

LAURA WESSEL

PAT POTTER

Defendants

STATE OF OHIO,

COUNTY OF HAMILTON, SS:

Bernard W. Wharton being first duly sworn, states as follows:

1. I am counsel for the defendants in this matter.
2. On December 28, 2005, I had a telephone call with Joseph Bancsi, plaintiffs'

counsel, concerning the discovery responses that were due on that day as ordered by this Court. In that conversation, I granted Mr. Bancsi an extension of time until January 5, 2006 to respond to the discovery requests propounded to his clients.

3. After January 5, 2006 came and went without receiving any discovery responses, I had another telephone conversation with Mr. Bancsi on January 10, 2006 at which time I again extended the time for the plaintiffs to respond to the discovery requests to January 16, 2006.

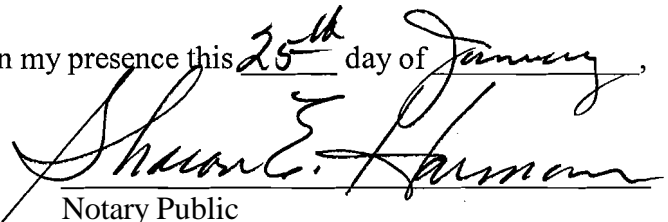
4. That date has come and gone without receiving any discovery responses again from the plaintiffs. As of the date of this affidavit, no discovery responses have been received by me from plaintiffs or their counsel. Instead, I received a fax letter on January 19, 2006 again promising that the discovery responses would be completed "next week".

FURTHER AFFIANT SAYETH NAUGHT.



Bernard W. Wharton

Sworn to before me and signed in my presence this 25th day of January, 2006.


Notary Public

SHARON E. HARMAN
Notary Public State of Ohio
My Commission Expires July 1, 2007